

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Docket No. **TSCA-08-2003-0002**

In the Matter of:)	
Montana Resources Company)	
600 Shields Avenue)	CONSENT AGREEMENT
Butte, Montana 59701)	
a Montana General Partnership,	}	
Respondent.)	

Complainant, United States Environmental Protection Agency, Region 8, and
Respondent, Montana Resources Company by its undersigned representatives, hereby consent
and agree as follows:

1. The United States Environmental Protection Agency (EPA), Region 8, initiated

this proceeding pursuant to Section 15 of the Toxic Substances Control Act (TSCA), 15 U.S.C.
Section 2614.

2. This Consent Agreement shall apply to and be binding upon Respondent, its

officers, directors, servants, employees, agents, successors and assigns, including, but not limited
to, subsequent purchasers.

3. Respondent, stipulates that EPA has jurisdiction over the subject matter alleged in

the Complaint and Respondent waives any defenses it might have as to jurisdiction and venue,
and, without admitting or denying the factual allegations contained in the Complaint, consents to
the terms of this Consent Agreement.

4. Respondent hereby waives its right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint.

5. Respondent has demonstrated to the satisfaction of EPA that it has achieved compliance with the requirements that formed the basis of the Complaint.

6. Respondent, by executing this Consent Agreement, hereby certifies to EPA that it is now in compliance with each of the relevant provisions of Section 15 of TSCA, 15 U.S.C. Section 2614.

7. Respondent, hereby certifies to EPA that it has removed thirty polychlorinated biphenyl ("PCB") transformers, properly disposed of them in accordance with TSCA, and replaced them with thirty new R-Temp filled transformers.

7. Complainant agrees to settle this matter for thirty nine thousand dollars (\$39,000).

8. Respondent consents to the payment of a civil penalty in the amount of thirty nine thousand dollars (\$39,000).

9. Respondent agrees and consents to the following:

a. After Respondent has received the Final Order in this matter, Respondent shall pay a total civil penalty of **thirty nine thousand dollars (\$39,000.00)** in eight payments of

four thousand eight hundred and seventy five dollars (\$4,875) each in accordance with the following schedule:

1st payment of \$4,875 is due and must be received by not later than 12/30/03;

2nd payment of \$4,875 is due and must be received by not later than 03/30/04;

3rd payment of \$4,875 is due and must be received by not later than 06/30/04;

4th payment of \$4,875 is due and must be received by not later than 9/30/04;

5th payment of \$4,875 is due and must be received by not later than 12/30/04;

6th payment of \$4,875 is due and must be received by not later than 03/30/05;

7th payment of \$4,875 is due and must be received by not later than 06/30/05;

8th payment of \$4,875 is due and must be received by not later than 9/30/05;

by sending certified or cashier's checks, payable to "Treasurer, United States of America" to the following address:

Mellon Bank
EPA Region 8
(Regional Hearing Clerk)
P.O. Box 360859M
Pittsburgh, PA 15251

The checks shall reference the name and address of Respondent's facility and the EPA docket number of this action.

- b. **Copies of the cashier's or certified checks** shall be sent simultaneously to:

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466

and Brenda L. Morris (8ENF-L)
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

10. Respondent further agrees and consents that if Respondent fails to make any of the installment payments on the due date specified Respondent shall:

- a. Pay interest of six percent (6%) per annum on any amounts specified in subparagraph 9.a., above, which will begin to accrue from the specified due date;
- b. Pay a handling charge of fifteen dollars (\$15.00) that will be assessed on the 31st day and each 30-day period that any amounts specified in subparagraph 9.a., above, are due and unpaid; and
- c. Pay an additional penalty of six percent (6%) per annum that will be assessed on any amounts due and unpaid if payment is not received within 90 days of the due date.

11. All late payments received by Respondent will be applied first to the charges specified in subparagraphs 10.a- c., above, and next to any unpaid principal amount.

12. Should Respondent fail to make a timely payment in accordance with the

installment schedule referenced above, EPA maintains and reserves sole discretion to require Respondent to pay immediately upon notification to Respondent the full amount of the civil penalty (\$39,000) or any portion thereof outstanding plus the handling charge, additional penalty, and interest referenced in subparagraph 10.a - c., above.

13. The penalty specified in Paragraph 8, above, shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal taxes.

14. Nothing in this Agreement shall relieve Respondent of the duty to comply with TSCA and its implementing regulations. This Agreement does not release Respondent from criminal liability under any federal statute. Nor does this Agreement relieve Respondent of liability relating to any imminent and substantial endangerment to public health or welfare or the environment. Notwithstanding the foregoing, this Consent Agreement constitutes a settlement and release by EPA of all claims for civil penalties pursuant to TSCA for the violations alleged in the Complaint.

15. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this Consent Agreement and to execute and legally bind that party to it.

14. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this Consent Agreement.

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8, Office of Enforcement, Compliance
and Environmental Justice, Complainant.**

Date: 12/22/03

By: Michael T. Risner
Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program

Date: 12/22/03

By: Elisabeth Evans for/
Martin Hestmark, Director
Technical Enforcement Program

Date: 12/22/03

By: SIGNED
Brenda L. Morris, Attorney
Legal Enforcement Program

MONTANA RESOURCES COMPANY

Date: _____

By: SIGNED
(Signature of authorized person/Title)
John F. Gardner, President

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **MONTANA RESOURCES CO., DOCKET NO.:TSCA-08-2003-0002** was filed with the Regional Hearing Clerk on January 6, 2004.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Brenda Morris, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on January 6, 2004, to:

Rebecca L. Summerville
Datsopoulos, MacDonald & Lind, P.C.
201 West Main - Central Square Building
Missoula, MT 59802

January 6, 2004

SIGNED

Tina Artemis
Regional Hearing Clerk

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE
ON JANUARY 6, 2004.**